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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/581,021	06/08/2000	TOSHIYA TAKEKUMA	1776/00050	9733

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EXAMINER

GORT, ELAINE L

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 01/02/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/581,021

Applicant(s)

TAKEKUMA ET AL.

Examiner

Elaine Gort

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in June 29, 2000. A translation of the priority document is required.

Specification

2. A substitute specification and abstract in proper idiomatic English and in compliance with 37 CFR 1.52(a) and (b) is required. The substitute specification filed must be accompanied by a statement that it contains no new matter. It appears applicant has submitted a literal translation which is unclear.

Claim Rejections - 35 USC § 112

3. Claims 1-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document and are replete with grammatical and idiomatic errors.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and

Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation of a goods dealing system including first, second and third processing means, and the dependent claim 2 recites only the inclusion of the first and second processing means which is narrower, and it is therefore, unclear what limitation is being added with claim 2. The application should be reviewed for other occurrences and corrected.

The claims are replete with functional and indefinite language, failing to positively and distinctly set forth structure and its interconnection(s). All of the claims should be reviewed for compliance and new claims submitted as necessary.

Several examples include the following:

In claim 1 the preamble is very wordy and hard to understand.

Also in claim 1 it is unclear what is meant by a "cross dealing by pre-engagement" and it is further unclear what is being specifically claimed in regard to "a conclusion is sequentially made with every agreement between said buying information and said selling information after collating . . .".

In claim 9 it is very unclear regarding what is specifically being claimed regarding the "second specifying means."

In claim 10 it is unclear what is specifically being claimed regarding "a condition entering portions for entering conditions at the time any piece of information is extracted from the information generated by executing one of the functions selected by the function list display portion."

All of the claims should be reviewed for compliance and new claims submitted as necessary.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 1-46 are rejected because they lack patentable utility. Claims 1-9 only claim the manipulation of data but perform no concrete, useful or tangible result.

6. Claims 1-19 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Current office policy regarding method claims disclosed as requiring a computer but not claiming the use of a computer is to consider the claimed subject matter as non-statutory for failing to fall within the technological arts. Claims must be tied to a technological art. Tying the method to a computer would be one way to overcome this rejection.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ordish (European Patent Application Publication 0434224A2).

Ordish discloses, as best understood, the claimed system, method and storage medium for goods dealing including processing means for processing buying and selling information (special criteria entered by buyer and seller which includes conditions for purchase and sale, e.g. see column 6, line 42, book of bids and offers); processing means for collating buying and selling information based on predetermined conditions and creating a sequential conclusion made with agreements (automatic matching transactions and conversation negotiate trading transactions) (creates, tracks and processes tickets, e.g. see figure 16 and 17); input terminal, browser, display (located at keystations); and host (networked, e.g. 2000).

Ordish discloses the claimed system, method and storage medium for "goods dealing" but is silent regarding the goods losing or reducing their values after passage of a period of time. It is notoriously old and well known in the art of trading to trade goods which lose or reduce their values after passage of time to allow buyers and sellers to buy or sell when the value is declining. It is well known in the art of trade that goods may depreciate, perish and/or lose value based on many market conditions (e.g.

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weather conditions, crop conditions, seasons, the economy and age of item). It would have been obvious to one having ordinary skill in the art at the time the invention was made that the dealing of Ordish could be carried out on trading goods that are losing value with time, in order to allow buyers and sellers to transfer goods that are losing value with time.

Regarding a second dealing condition that is easier than a prior dealing condition. It is notoriously old and well known in the art of negotiation that a buyer or seller raises or lowers, respectively, their price to adjust the price to make a purchase or sale, respectively. Therefore the raising of the buyer's offer or lowering of the seller's price demanded would have been obvious at the time of the invention in order for the buyer and seller to come to an agreement to transact the good.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elaine Gort whose telephone number is (703)308-6391. The examiner can normally be reached on Monday through Thursday from 7:00 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703)308-5183. The fax phone number for the organization where this application or processing is assigned is (703)305-7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

EG

December 29, 2002



ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600